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Synopsis of Sample Cases Under 19 U.S.C. 1307

Crabmeat from the Soviet Union--1950-1961

This case appears to be the one most similar to the current situation. A complaint was received from six Congressmen. The finding was based primarily upon summary information provided by the Central Intelligence Agency. A copy of the memo to file prepared by Mr. Nichols and Mr. Higman dated June 9, 1950, is attached for your reference. The background briefing memo to the Secretary of the Treasury indicates that the finding was based primarily on this C.I.A. information. It also reflects, that based upon discussions with the Department of State, it was decided to obtain some information which would be available for use in Court should the finding be challenged. Since the Korean War precluded the obtaining of such affidavits through normal channels, a small contingent of Customs officers went to Japan and interviewed some ex-prisoners. Affidavits were obtained from the ex-prisoners indicating that forced labor had been used to can the subject crabmeat. This finding was revoked in 1961 based upon assurances from the State Department that the crabmeat was no longer produced with convict or forced labor. A copy of the background memo regarding the revocation is attached for your information.

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Cameras from East Germany--1962-1963

In our view, this case illustrates well the political nature, or application, of the provisions in question. A memo to file dated October 11, 1962, reflects rather bluntly that the administration considered this provision to "be a weapon to be used in the Berlin conflict if necessary." This memo also reflects that the background facts were not very specific but recognized that they were the best facts that we could possibly obtain given the circumstances. Approximately one year later, in June of 1963, the Commissioner determined not to issue a finding based upon the conclusion that "the affidavits furnished do not show that any of the deponents thereof had any first hand knowledge that the particular prison made goods with which they had been associated were exported to the United States."

Cameras from Japan--1965

This case appears to reflect the strongest evidence where the Commissioner did not issue a preliminary determination. The file reflects very specific information that the merchandise in question was produced by convict labor and that indeed some of that merchandise had been actually exported to the United States. The Commissioner determined not to issue a detention order based upon the conclusion that the investigation failed to

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disclose positive evidence of the use of convict labor for goods imported into the United States "subsequent to its apparent use during 1965."

Rugs from Pakistan--1972

This case appears to represent the situation where the Commissioner issued a detention order on the basis of the flimsiest evidence. The merchandise in question was described as flat, hand woven mats of waste cotton yarns of poor quality and design, lacking in appeal. Based upon the mere allegation that these rugs were woven by convicts in prisons in Pakistan, a detention order was issued. Subsequent investigation resulted in the revocation of the initial determination.

Coconut Shells from Grenada--1973

This appears to be the strangest case which we have located. It appears that no actual notices were published and that the detention was done simply on letters to the importer. Eventually the goods were released.

Coal from South Africa--1974

The file reflects that the issue concerning South African mining laws and labor practices was held in abeyance pending a determination of the question of whether "low sulfur coal" was a separate class or commodity of goods from coal generally. The Commissioner declined to issue a detention notice, based upon the decision that low sulfur coal did indeed constitute a separate class or commodity of merchandise that was not being produced in sufficient quantity in the United States.

Mini Tanks (Toy Tanks) from Austria--1963

This case represents a situation where very detailed allegations were made concerning specific merchandise manufactured at a specific prison facility. The investigation confirmed the allegations and further found that as of October 2, 1963, the practice had ceased. Accordingly, a finding was issued to prohibit the importation of the subject merchandise exported to the United States prior to October 2, 1963.

Candy filled Toys from East Germany--1958

This case concerned allegations that East Germany was using prisoners to fill toys with candy. After investigation and extensive internal debate, the Commissioner concluded that the mere filling of the toys with candy did not constitute a manufacture or a production and, therefore, neither a detention order nor a finding was issued.

Petroleum Products from Romania--1959

Pursuant to allegations of the use of "convict labor" in oil imported from Romania, the American legation in Romania was asked to investigate the

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matter. Their response was that convict labor was used in the production of almost everything in Romania. However, the Treasury Department decided not to pursue this case because oil was no longer being imported into the United States from Romania.

Hams from Poland--1956

The allegation by the Department of Agriculture was that Polish farmers were required to meet a production quota and that failure to meet the quota was the basis for the imposition of fines or jail sentences. Although Treasury accepted the proposition that such a practice would be covered by § 1307, it found evidence of such a practice to be insufficient for making a finding to prohibit importation of the hams. The file also contains some discussion of whether Polish hams were comparable to American hams for purposes of determining sufficient domestic production.

Dolls from Hungary--1964

The allegation was mere speculation that low invoice prices were due to convict labor. Field officers were instructed to pursue a § 1592 investigation instead.

Artificial Flowers from East Germany--1957-1959

The allegation was based on a newspaper article. The Department of Treasury declined to issue a finding in the absence of "eye witnesses," although the file does contain declarations from former prisoners regarding the use of convict labor in making the artificial flowers for export.

Furniture from Mexico--1971

A note in the file indicates that on the basis of a preliminary investigation, detention or "constructive seizure" was ordered. At the conclusion of the investigation, a finding was not issued on assurances of no future convict labor shipments. Goods already under detention or "constructive seizure" were exported.

Iron Ore from Algeria--1931 and 1935

Detailed investigation showed that convict labor was used in mining the iron ore imported into the United States. No finding was issued on the basis of assurances that the iron ore shipped to the United States would not involve convict labor. It was discovered in 1935 that "convict labor" iron ore was being imported. Field ordered to detain and report any shipments to Headquarters. No indication in file as to ultimate action.

In addition to the above 14 cases, we have located files on approximately 50-60 more cases which we felt did not merit individual synopsis. Some of the cases were closed because they involved one-time shipments or because the allegations were totally unsubstantiated. Many of the cases did result in investigations, but no findings were issued on the

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basis that convict labor, as intended by the statute, were not involved. Often the merchandise was clearly produced by prisoners, but according to the "Hendrick Rule," there was no convict labor. A copy of Mr. Hendrick's 1956 memorandum discussing the determinative factors is attached. Briefly stated, if it was found that the work was done voluntarily, on a prisoner's own time, for compensation and with no pecuniary interest to the states (although deductions for room and board were frequently allowed), then there was no convict labor.

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